

HALL

REED

GARNER

AGENDA

Wednesday, March 15, 1995

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:30 a.m.

Bldg E. Room 201S

12118 N. Interstate 35

**UNCONTESTED (Industrial Hazardous Waste Class 3 Modification)**

Item 1. **Docket No. 95-0407-IHW.** Consideration of an application by QUANEX CORPORATION - GULF STATES TUBE DIVISION for a Class 3 Modification to Compliance Plan No. CP50129 in accordance with 30 TAC Section 305.69. The compliance plan modification will authorize the construction and operation of a ground-water monitoring and corrective action system. The facility is located on an 82.3-acre tract of land on Scott Road near Rosenberg, Fort Bend, Texas. (Kan Tu)

Issue Modification, PR/PG

**UNCONTESTED (Municipal Waste Discharge Permit)**

Item 2. **Docket No. 95-0427-MWD.** CITY OF LEONA AND TRAVIS J. ODEN, P.O. Box 193, Leona, Texas 75850 have applied to the Texas Natural Resource Conservation Commission (Commission) for a permit (Proposed Permit No. 13756-01) to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 100,000 gallons per day. The City of Leona Wastewater Treatment Facilities will serve the City of Leona. The plant site is approximately 1,500 feet due east of U.S. Highway 75 and 3,000 feet northeast of the intersection of U.S. Highway 75 and Farm-to-Market Road 977 in Leon County, Texas. (Tom Weber)

Issue Permit, PG/PR

**UNCONTESTED (District Matter)**

Item 3. **Docket No. 95- 0311- DIS.** Consideration of a proposed order acting on a Petition by Peyton Martin, Trustee requesting appointment of five directors to the Brazoria County Municipal Utility District No. 16 Board of Directors. For Commission consideration. Peyton Martin, a landowner in the District, petitions the Commission to appoint Corby M. Collins, Sean McGowan, Basil A. MacDonald, Tom Stewart and Mark T. Fowler as directors to the Board. (Robert Ferguson)

Approved, PR/PG

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**UNCONTESTED (Settled Hearings)**



Item 4. **Docket No. 94-0460-AGR.** Consideration of Examiner's Memorandum concerning the application of Jan Pieter DeVries for Permit No. 03679- 01 to authorize the disposal by irrigation of wastes and wastewater from a dairy in Erath County, Texas. No discharge of pollutants into the waters of the state is authorized by this permit. Recommendation: Issuance of permit. (Jim Bateman)

Adopt Examiner's Memorandum and Issue Permit, PG/PR

Item 5. **Docket No. 95-0329-PST.** Consideration of Examiner's Memorandum and Order dismissing the petition of Luke Johnson Ford (Application No. 2471) for reimbursement from the petroleum storage tank remediation fund. Recommendation: Adoption of Order dismissing application. (Alexander Bourgeois, Hearings Examiner)

Adopt Examiner's Memorandum and Issue Order, PG/PR

Item 6. **Docket No. 95- 0330- MWD.** Consideration of Examiner's Memorandum and Order concerning the application of Webb County for a renewal of Permit No. 12271- 01 to authorize discharge of treated domestic wastewater effluent in phases, with the final phase not to exceed an average flow of 180,000 gallons per day, in Webb County, Texas. Recommendation: Dismissal of application. (Bill Zukauckas)

Adopt Examiner's Memorandum and Issue Order, PG/PR

Item 7. **Docket No. 95- 0302- UCR.** Consideration of Examiner's Memorandum and Order concerning the application of Military Highway Water Supply Corporation to transfer a portion of North Alamo Water Supply Corporation's Water Certificate of Convenience and Necessity No. 10553 to Military Highway Water Supply Corporation to provide water service in Hidalgo County, Texas. Recommendation: Dismissal. (Bill Zukauckas)

Adopt Examiner's Memorandum and Issue Order, PG/PR

Item 8. **Document No. 94-0737-UCR.** Consideration of Examiner's Memorandum and Order concerning the petition by out- of- city ratepayers appealing the increase in retail water rates charged by the City of Gilmer in Upshur County, Texas. The City of Gilmer provides retail water service to approximately 174 customers residing outside the corporate limits. Docket No. 94- 0737- UCR. Recommendation: Adoption of agreement of parties. (Nina Fantl)

Adopt Examiner's Memorandum and Issue Order, PG/PR

#### UNCONTESTED (On-Site Sewage)

Item 9. **Docket No. 95-0425-OSS.** Application by West Central Texas Municipal Water District to regulate On-Site Sewage Facilities within their jurisdiction.

Approved, PR/PG

#### CONTESTED (Industrial Hazardous Waste Enforcement)

Item 10. **Docket No. 95-0282-IHW-E.** Consideration of an Agreed Order Assessing Administrative Penalties and Requiring Certain Actions of Exxon Company, U.S.A. (Exxon) for Alleged Violations of the Texas Solid Waste Disposal Act, TEX. HEALTH AND SAFETY CODE ANN. Chapter 361 (Vernon 1992), the Texas Water Code, TEX. WATER CODE ANN. Chapter 26 (Vernon Supp. 1993) and the Rules of the Texas Natural Resource

Conservation Commission. (GLEN GRUNBERGER).

Issue Agreed Order, PR/PG

Item 11. **Docket No. 95- 0417- IHW- E.** Consideration of a proposed Agreed Order resolving an enforcement action instituted against Longview Refining Associates, Inc. under the Texas Solid Waste Disposal Act, Tex. Health and Safety Code Ann. Chapter 361 (Vernon Supp. 1992), the Texas Water Code, Chapters 5 and 26 (Vernon 1988 and Supp. 1994). Assessing administrative penalties and requiring certain actions of Long view Refining Associates, Inc. (SALLY JO HAHN)

Issue Agreed Order, PR/PG

**CONTESTED (Air Enforcement)**

Item 12. **Docket No. 95-0368-AIR.** Consideration of Agreed Order regarding Cornerstone Natural Gas, Inc.'s emission reductions from a shutdown at the Bear Wallow/ Cheyenne facility. (Jim Dodds)

Issue Agreed Order, PG/PR

**CONTESTED (Petroleum Storage Tank Enforcement)**

Item 13. **Docket No. 95- 0347- PST- E.** Consideration of a TNRCC Agreed Order pursuant to Texas Water Code Section 26.136 for violations of 30 Texas Administrative Code Section 334.50(b) assessing administrative penalties and requiring certain actions of Mr. Terry Morales and Mrs. Janie Morales.; Enforcement Identification No. E10833. (Karen Pala).

Issue Agreed Order, PR/PG

**CONTESTED (Sludge Enforcement)**

Item 14. **Docket No. 95- 0428- SLG- E.** Consideration of an Agreed Order Requiring Certain Actions of Steiner Utility Company Permit Number 13294- 001 for violating Section 26.121 of the Texas Water Code, and Permit Number 13294- 001. (KATHY KEILS).

Issue Agreed Order, PG/PR

**CONTESTED (Solid Waste Enforcement)**

Item 15. **Docket No. 94- 0203- SWR- E.** Consideration of an Agreed Order Requiring Certain Actions of Martin's Country Living Mobile Home Park Permit No. 12962- 001 for violating Section 26.121 of the Texas Water Code, and Permit No. 12962- 001. (KATHY KEILS/CARLA THOMAS)

Issue Agreed Order, PG/PR

**CONTESTED (Water Well Drillers Enforcement)**

Item 16. **Docket No. 95- 0397- WWD- E.** Consideration of an Agreed Order Assessing Administrative Penalties and Requiring Certain Actions of Fifty Licensed and Unlicensed Water Well Drillers and Pump Installers (Mir Azizi, Steve Beaird, Rex Bible, Michael Bratson, Rodney Broussard, David Burleson, Jack Burns, Dean Davenport, Claude Davis, E.R. English, John Fitzgerald, Melvin Fuller, Elwyn Gibson, J.B. Gillen, J.W. Greak, Jr., Randal Johnson, Thomas Moy, Earl Haberman, Jerry Jasek, Roy Johnson, Dale Jones, Mark Lewis, Lawrence Neusch, Michael O'Day, Jere Pritchett, Tim Robinson, Millard Smith, Jr., Roy Stricker, Jr., John Webb, John Box, Roman Gonzales, Alan Hagemeyer, Louis Postert, Ray Reed, Ronnie Rust, Curtis Stone, Henry Warren, Ron Wheeler, L.A. Addison, John Barker, James Bolton, R.M. Cole, Dean Davenport, Vernon Davis, Furman Greer, Kenneth Kramer, Sonny Leggett, Lloyd Munson, Aaron Peters, and Thomas F. Smith) for violating sections of Chapters 32 and 33 of the Texas Water

Code, 30 Texas Administrative Code (TAC) Chapters 338, 339, and 340. The violations alleged by the TNRCC Water Well Drillers Staff include, but are not limited to, the following violations: advertising to drill without a license, drilling without a license, aiding and abetting an unlicensed driller, failing to seal the annular space of a well, failing to timely file well reports, and installing waterpumps without a license. (KATHY KEILS/LEE PARHAM/RICK WILDER/DALE KUHN/W.L. STRIBLING)

Issue Agreed Order, PG/PR

#### **CONTESTED (Public Water Supply Enforcement)**

Item 17. **Docket No. 95- 0228- PWS- E.** Consideration of Agreed Order resolving an enforcement action against Elegant Additions, Inc. for violations of the Texas Health and Safety Code, Chapter 372, and the rules of the Texas Natural Resource Conservation Commission; Assessing Administrative Penalties and requiring certain actions of Elegant Additions, Inc.

Issue Agreed Order, PG/PR

#### **CONTESTED (Proposal for Decision)**

Item 18. **Docket No. 95-0314-MSW-E.** Consideration of Hearings Examiner's Proposal for Decision and Order concerning the petition of the Executive Director of the Texas Natural Resource Conservation Commission for an Order assessing penalties and requiring certain actions of B. J. Schindler, doing business in Austin and Colorado Counties, Texas. Penalty requested \$55,200.00. Recommendation: Issuance of Order assessing administrative penalties and requiring certain actions of B. J. Schindler. (Patricia Robards, Hearings Examiner)

Continued to March 29, 1995

#### **EXECUTIVE SESSION**

Item 19. **Docket No. 95-0434-EXE.** THE COMMISSION WILL MEET IN EXECUTIVE SESSION TO DISCUSS PENDING OR CONTEMPLATED LITIGATION, SETTLEMENT OFFERS, AND/OR THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE OR DISMISSAL OF SPECIFIC COMMISSION EMPLOYEES, as permitted by GOV'T CODE, Sections 551.071 and 551.074, the Open Meetings Act. No final action, decision or vote with regard to any matter considered in closed session shall be made in the absence of further notice issued in accordance with Chapter 551 of the Government Code.

No Action Taken

Item 20. **Docket No. 95-0435-EXE.** COMMISSIONERS WILL MEET IN EXECUTIVE SESSION TO DISCUSS THEIR DUTIES, ROLES, AND RESPONSIBILITIES AS COMMISSIONERS OF THE TNRCC UNDER GOV'T CODE, SECTION 551.074, the Open Meetings Act. No final action, decision or vote with regard to any matter considered in closed session shall be made in the absence of further notice issued in accordance with Chapter 551 of the Government Code.

No Action Taken

(PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TNRCC AGENDA AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, LARGE PRINT, OR BRAILLE ARE REQUESTED TO CONTACT DOUG KITTS IN THE OFFICE OF THE CHIEF CLERK AT (512) 239- 3317 AT LEAST TWO (2) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.)

**REGISTRATION FOR AGENDA STARTS AT 8:45 A.M. UNTIL 9:30 A.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.**

#### ADDENDUM TO AGENDA

Wednesday, March 15, 1995

#### TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:30 a.m.

Bldg E. Room 201S

12118 N. Interstate 35

Item 21. **Document No. 94-0592-AIR.** Consideration of Examiner's Memorandum concerning the application of Jim Nicholson Cattle Company for Air Quality Permits Nos. 23820 and 23763 to authorize the operation and construction of a feedlot and feedmill in Deaf Smith County, Texas. Recommendation: Issuance of permits. (Alexandre Bourgeois)

Adopt Examiner's Memorandum and Issue Permit, PG/PR

#### SECOND ADDENDUM TO AGENDA

Wednesday, March 15, 1995

#### TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

9:30 a.m.

Room 201S, Bldg E

12118 N. Interstate 35

Item 22. **Docket No. 95-0459-EXE.** The Texas Natural Resource Conservation Commission will meet in Executive Session to discuss the following pending litigation related to the Edwards Aquifer; Sierra Club, et al vs. Bruce Babbitt, et al., No. 91-CA-069, United States District Court, Western District of Texas, Midland - Odessa Division. The authority for the Executive Session is Section 551.071 of the Open Meetings Act, Chapter 551, Government Code.

Ask the Office of the Attorney General (Dan Morales) to reinstate the appeal of the order in this case and that we tell the Attorney General, that our role in the appeal will be passive, and that we want no further expenditures of Department Resources or staff beyond what is necessary to keep us appropriately informed, that our agency not be responsible for court cost or other cost of the litigation in excess of those currently being ordered by the court and also Attorney General (Dan Morales) personally handle this portion of the appeal and we also ask that we be treated as a client of the Attorney General and that prior to any docs being filed or any stances being taken on part of our agency that we go over that with the Attorney General and that we have full right to either agree or disagree on how that stances is going to be handled, PR/JH. Commissioner Garner voted against.